

Department of Energy

936.202

decision is made, and shall, at a minimum, state in general terms, the basis for the determination.

[61 FR 41710, Aug. 9, 1996]

935.070 Contract clauses.

Insert the clause at 952.235-70, Key Personnel, in research and development contracts under which performance is largely dependent on the expertise of specific key personnel. To prevent administrative burden, the list should be as limited as possible.

[49 FR 12016, Mar. 28, 1984, as amended at 59 FR 9107, Feb. 25, 1994]

PART 936—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Subpart 936.2—Special Aspects of Contracting for Construction

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936.202 Specifications.

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936.602-70 DOE selection criteria.

936.609-3 Work oversight in architect-engineer contracts.

Subpart 936.7—Standard and Optional Forms for Contracting for Construction, Architect-Engineer Services, and Dismantling, Demolition or Removal of Improvements

936.702 Forms for use in contracting for architect-engineer services.

Subpart 936.71—Inspection and Acceptance

936.7100 Scope of subpart.

936.7101 Construction contracts.

AUTHORITY: 42 U.S.C. 7254; 40 U.S.C. 486(c).

SOURCE: 49 FR 12016, Mar. 28, 1984, unless otherwise noted.

Subpart 936.2—Special Aspects of Contracting for Construction

936.202 Specifications.

(a) To support all invitations for bids, plans and specifications will be available on request to all prospective bidders, including general contractors, subcontractors, and material and equipment suppliers. Where the cost of reproduction is \$10 or more, the charge

shall be a minimum of \$10 and subject to a maximum of \$500, depending upon the size of the project and the number of drawings and the volume of specifications involved. Where the cost of reproduction is less than \$10, the contracting officer has authority to make distribution at cost of reproduction, or free of charge, as a particular situation dictates.

(b) No refund for the return of plans and specifications will be made except when the invitation is canceled. Under such circumstances, refund of payments will be made upon return of the plans and specifications in good condition to the issuing office.

(c) Plans and specifications will be issued without charge to such organizations as The Associated General Contractors of America, American Road Builders' Association, Dodge Reports, Blue Reports, Brown's Letters, Inc., builders and contractors exchanges in the locality in which the project is to be constructed, and others that maintain public plan display rooms.

(d) Payments received for plans and specifications shall be handled in accordance with the regulations prescribed by the General Accounting Office in sections 3020-10 and 3030 of Title 7 of GAO Manual for Guidance of Federal Agencies.

(e) If the contracting officer desires to have the architect-engineer or construction manager handle the furnishing of plans and specifications and payments therefor, the invitations for bids should so state, and the architect-engineer or construction management contract shall provide the manner in which the receipts are to be handled, generally as a credit to the contract.

(f) No charge will be made to original receivers of plans and specifications for revised sheets of drawings and revised pages of specifications which are issued by amendments to invitations.

(g) Plans and specifications may be issued in complete sets only, or in complete sets and parts of sets, as the Head of the Contracting Activity determines to be best. If less than complete sets of plans and specifications are issued, the distribution should be based on an applicant's request for specific pages and drawing sheets.

(h) When a non-refundable fee is to be charged, a provision substantially the same as 952.236-72 shall be included in the solicitation.

[49 FR 12016, Mar. 28, 1984, as amended at 60 FR 47308, Sept. 12, 1995]

Subpart 936.6—Architect-Engineer Services

936.602-70 DOE selection criteria.

Contracting officers or architect-engineer evaluation boards shall apply the evaluation criteria contained in this subsection, as appropriate, and any special criteria developed for individual selections. When special and additional criteria are to be used, they shall be set forth in the public announcement required by 936.601, and a written justification for their use shall be placed in the DOE file maintained for the project.

(a) *General qualifications, including:*

(1) Reputation and standing of the firm and its principal members;

(2) Experience and technical competence of the firm in comparable work;

(3) Past record in performing work for DOE, other Government agencies, and private industry, including projects or contracts implemented with no overruns; performance from the standpoint of cost including cost overruns (last 5 years); the nature, extent, and effectiveness of contractor's cost reduction program; quality of work; and ability to meet schedules including schedule overruns (last 5 years) (where applicable);

(4) The volume of past and present workloads;

(5) Interest of company management in the project and expected participation and contribution of top officials;

(6) Adequacy of central or branch office facilities for the proposed work, including facilities for any special services that may be required;

(7) Geographic location of the home office and familiarity with the locality in which the project is located;

(b) *Personnel and organizations.* (1) Specific experience and qualifications of personnel proposed for assignment to the project, including, as required for various phases of the work:

(i) Technical skills and abilities in planning, organizing, executing, and controlling;

(ii) Abilities in overall project coordination and management; and

(iii) Experience in working together as a team;

(2) Proposed project organization, delegations of responsibility, and assignments of authority;

(3) Availability of additional competent, regular employees for support of the project, and the depth and size of the organization so that any necessary expansion or acceleration could be handled adequately;

(4) Experience and qualifications of proposed consultants and subcontractors; and

(5) Ability to assign adequate qualified personnel from the proposed organization (firms own organization, joint-venture organizations, consulting firms etc.) including key personnel and a competent supervising representative.

(c) Additional (or special) criteria developed for the specific project shall be considered and evaluated as may be appropriate.

936.609-3 Work oversight in architect-engineer contracts.

In addition to the clause at FAR 52.236-24, the contracting officer shall insert the clause at 952.236-71 in architect-engineer contracts.

Subpart 936.7—Standard and Optional Forms for Contracting for Construction, Architect-Engineer Services, and Dismantling, Demolition or Removal of Improvements

936.702 Forms for use in contracting for architect-engineer services.

(a) The contracting officer shall also include the additional terms at 952.236-70 in Standard Form 252 item 6.

Subpart 936.71—Inspection and Acceptance

936.7100 Scope of subpart.

This subpart implements and supplements FAR Part 36 by prescribing the

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policies and requirements for inspection and acceptance under construction contracts.

936.7101 Construction contracts.

(a) Inspection services may be performed by the architect-engineer responsible for the design. Inspection services may not be procured from a construction contractor with respect to its own work.

(b) When one contractor is to inspect the work of another, the inspection contractor will be given written instructions defining its responsibilities and stating that it is not authorized to modify the terms and conditions of the contract, to direct additional work, to waive any requirements of the contract, or to settle any claim or dispute. Copies of the instructions will be given to the contractor who is to be inspected, with a request to acknowledge receipt on a copy to be returned to the contracting officer. In this manner, both contractors are on express notice of the authority and limitations of the authority of the inspecting contractor.

PART 937—SERVICE CONTRACTING

Subpart 937.70—Protective Services Contracting

937.7040 Contract clauses.

AUTHORITY: 42 U.S.C. 7254; 40 U.S.C. 486(c).

Subpart 937.70—Protective Services Contracting

SOURCE: 58 FR 36151, July 6, 1993, unless otherwise noted.

937.7040 Contract clauses.

The contracting officer shall insert the clause at 952.237-70 entitled "Collective bargaining agreements—protective services" in all protective services solicitations and contracts involving DOE-owned facilities requiring continuity of services for public safety and national defense reasons. See also, 922.103-5, Contract clauses, which prescribes use of the clause at FAR 52.222-1, Notice to the Government of Labor Disputes.

PART 939—ACQUISITION OF INFORMATION TECHNOLOGY

Subpart 939.70—Implementing DOE Policies and Procedures

Sec.

939.7000 Scope.

939.7001 Outdated information technology equipment.

939.7002 Contractor acquisition of information technology.

AUTHORITY: 42 U.S.C. 7254; 40 U.S.C. 486(c).

SOURCE: 62 FR 53758, Oct. 16, 1997, unless otherwise noted.

Subpart 939.70—Implementing DOE Policies and Procedures

939.7000 Scope.

This part sets forth the policies and procedures that apply to the acquisition of information technology by the Department of Energy (DOE).

939.7001 Outdated information technology equipment.

Solicitations and contracts for, or using, outdated information technology equipment shall be submitted to the Office of Management Systems, Office of Procurement and Assistance Management for review and approval. The Office of Information Management shall review these documents and make the decision whether to allow the acquisition or use of outdated information technology equipment.

939.7002 Contractor acquisition of information technology.

(a) *Management and operating (M&O) contracts.* Except as provided in paragraph (c) of this section, M&O contractors and their subcontractors shall not be used to acquire information technology unrelated to the mission of the M&O contract either for sole use by DOE employees or employees of other DOE contractors, or for use by other Federal agencies or their contractors.

(b) *Other than M&O contracts.* Where it has been determined that a contractor (other than an M&O contractor or its subcontractor) will acquire information technology either for sole use by DOE employees or for the furnishing